

of 10 years of service and this is the first time a circumstance of this nature has arose. Therefore, the facts and circumstances conclusively leads to the fact situation that it is only on account of some kind of exploitation by one of the executives in the respondent management the petitioner developed apprehensions in attending to his work. Therefore, in the above circumstances and it is also admitted that the person responsible for this labour dispute who is alleged to be one of the executive by name Sergio is not any more in the management concern and therefore in such circumstances the petitioner cannot have any difficulty in joining the service in the respondent management hereafter. The welfare of the petitioner is also to be taken into consideration in spite of the fact he has absented from attending duty. Therefore, to save scope for justice and in the interest of justice this court feels that it would be justifiable if an order of reinstatement of the petitioner is passed and that would also serve the cause of justice and suffice the situation.

14. However as far as the claim for back wages is concerned the submissions of the learned counsel for the respondent has some force. The learned counsel for the respondent argued that the petitioner was given opportunities to join service and as he had refused he cannot have a cause of action for back wages without doing any work. He further argued that the petitioner was never terminated and therefore in such circumstances the question of entitlement to back wages is not sustainable. Therefore, this court also finds that there is no justification to award back wages to the petitioner in view of the factual matrix of the case. However, as discussed above interest of justice will be served if the petitioner is reinstated but no back wages could be awarded to the petitioner.

15. In the result the industrial dispute is partly allowed and the respondent is directed to reinstate the petitioner into service with continuity of service. However, he is not entitled for back wages. There shall be no order as to costs.

Typed to my dictation, corrected and pronounced by me in the open court on this the 31st day of January, 2013.

T. MOHANDASS,
Presiding Officer,
Labour Court, Puducherry.

List of petitioner's witness:

PW.1 — 14-9-2012—Sivakumaran

List of petitioner's exhibits:

Ex.P1 — Copy of the appointment order of the petitioner, dated 17-6-1999.

Ex.P2 — Discharge card of the petitioner.

Ex.P3 — Show cause notice, dated 10-10-2009 sent to the petitioner by respondent.

Ex.P4 — Letter, dated 31-10-2009 sent by the respondent to the petitioner.

Ex.P5 — Letter, dated 22-6-2010 sent by the petitioner to the respondent.

Ex.P6 — Copy of the enquiry notice, dated 13-8-2010

Ex.P7 — Copy of the enquiry notice, dated 19-10-2010

Ex.P8 — Copy of the I.D. Note, dated 30-6-2011

List of respondent's witness:

RW.1 — 23-11-2012—Aroquiaradja

List of respondent's exhibits:

Ex.R1 — Copy of the first warning letter, dated 19-8-2009

Ex.R2 — Copy of the letter, dated 17-8-2009 sent by the petitioner to respondent.

Ex.R3 — Copy of the notice of enquiry, dated 27-8-2009

Ex.R4 — Copy of the letter, dated 1-9-2009 sent by the petitioner to the respondent.

Ex.R5 — Show cause notice, dated 11-9-2009 sent to the petitioner.

Ex.R6 — Copy of the letter, dated 15-9-2009 sent by the petitioner to the respondent.

Ex.R7 — Copy of the reminder show cause notice to the petitioner, dated 10-10-2009.

Ex.R8 — Copy of the letter sent by the petitioner to the respondent, dated 20-11-2009.

T. MOHANDASS,
Presiding Officer,
Labour Court, Puducherry.

**GOVERNMENT OF PUDUCHERRY
CHIEF SECRETARIAT (WORKS)**

(G.O. Ms. No. 15, dated 19th April 2013)

NOTIFICATION

On attaining the age of superannuation, Thiru D. Sambasivam, Assistant Engineer, Public Health Division, Public Works Department, Puducherry is admitted into retirement with effect from the afternoon of 30-4-2013.

(By order)

N. SUMATHI,
Joint Secretary to Government (Works).